from an order refusing to dissolve an injunction restraining defendants from entering the automobile business, made before final hearing, conflicting affidavits leave the matter in too much doubt for final decision, so that the cause should be remanded for proofs necessary to final determination.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 632.]

Appeal from Circuit Court, Washington County.

Bill by R. T. Sutton and another, copartners as the Clinch Motor Company, against T. B. Lynch and another, to enjoin defendants from entering the automobile business. From an order refusing to dissolve the injunction, granted in accordance with the prayer of the bill, the defendants appeal. Appeal dismissed without prejudice.

Finney & Wilson and *S. B. Quillen,* all of Lebanon, for appellants.

Burns & Kidd and *Bird & Lively* all of Lebanon, for appellee.

O'QUINN *v.* HAZEL LAND CORPORATION et al.

Sept. 22, 1921.

[108 S. E. 643.]

1. Judicial Sales (§ 27 (2)*)—Purchaser, Cast in Judgment for Failure to Complete Purchase, Held Not Entitled to Reimbursement from Proceeds of Further Sales.—Purchaser at sale of land at suits of holders of several liens, failing to complete his purchase and compelled to pay loss incurred by resale for lesser amount, was not entitled to reimbursement from surplus from proceeds of sales of other lands of the debtor in the same proceedings, or entitled to subject other lands sold by the debtor to his claim for reimbursement by virtue of an agreement between him and the debtor, unknown to the subsequent purchasers, that he should be saved harmless by reason of his purchase; his remedy, if any, being against the debtor on such agreement.

2. Lis Pendens (§ 26 (1)*)—Lands Subject to Owner's Debts in Inverse Order of Alienation.—If a purchaser at judicial sale, compelled to pay loss sustained by his failure to complete the purchase, was entitled to reimbursement for such loss out of lands sold by the debtor pending the proceedings, the lands first aliened would be last subject to such claim.

Appeal from Circuit Court, Dickenson County.

Petition of W. O'Quinn in numerous creditors' suits against J. P. Laforce, which were heard together for enforcing liens.

---

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Sale was ordered, at which W. O'Quinn purchased six tracts of land. Failing to pay purchase money, the land was resold, resulting in a deficit, for which judgment was taken against O'Quinn, which he paid in full, and between the time of sale and resale the Hazel Land Corporation purchased of the debtor certain other tracts, which were subsequently sold, resulting in a surplus, and O'Quinn petitioned to be reimbursed therefrom for the judgment he had paid, and from a decree sustaining a demurrer by the Hazel Land Corporation and others to the petition, and dismissing the petition, O'Quinn appeals. Affirmed.

W. B. Phipps, and *S. H. & G. C. Sutherland,* all of Clintwood, for appellant.

Chace & McCoy, of Clintwood, *Harman & Harman,* of Tazewell, for appellees.

ALLS et al. *v.* COMMONWEALTH.

Sept. 22, 1921.

[108 S. E. 645.]

1. **Bail (§ 82*)—Need Not Show that Recognizance Sought to Be Forfeited Was in Legal Form.**—The purpose of a writ of scire facias to forfeit a recognizance is merely to give notice to defendant of application for award of execution to enable him to show cause why the recognizance should not be forfeited, and it need not show on its face that the recognizance was in legal form, and need not recite all conditions of the recognizance, being sufficient if it identifies the recognizance.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 217, et seq.]

2. **Bail (§§ 57, 58*)—Recognizance Held Valid.**—A recognizance was not invalid because it did not require the defendant to appear before the court, or any court, but only before the judge, or because language therein, "to answer said indictment," was not sufficiently definite to identify the indictment, and hence not equivalent to statutory requirement that condition of recognizance should be that the defendant shall appear "to answer for the offense with which such person is charged," it appearing in the caption in which the form of the recognizance appeared that the indictment was for violation of the Prohibition Law, in view of Code 1919, §§ 4973, 4981.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 217, et seq.]

3. **Bail (§ 58*)—Recognizance Need Only Point Out Offense.**—If the language used in a recognizance is sufficiently definite to point

---

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.